

## COUNTY OF YORK MEMORANDUM

**DATE:** September 1, 2000 (BOS Mtg. 9/19/00)

**TO:** York County Board of Supervisors

**FROM:** James E. Barnett, County Attorney



**SUBJECT:** Amendment of County Code § 16-7 With Respect to the Discharge of Firearms with a Department of Game and Inland Fisheries Kill Permit

This matter was initially considered by the Board at its meeting of June 20, 2000. I brought to the Board's attention IIB 521, adopted by the 2000 General Assembly, which mandates that any county that prohibits the firing of firearms pursuant to Virginia Code § 15.2-1209 (as York County does in certain designated portions of the County) must provide an exception for the killing of deer with a DGIF kill permit on land of at least five acres that is "zoned for agricultural use." Noting that York County does not have, strictly speaking, an agricultural zone, but that four zones (namely the RR, RC, IL, and IG zones) allow traditional agricultural activities as a use of right, I drafted an ordinance amendment for the Board's consideration amending County Code § 16-7 to allow the discharge of firearms for control of deer populations on parcels of five or more acres within any of those four zones. The Board declined to take action that night, asking that I give further consideration to several questions posed by Board members, and possibly to bring back a revised draft modification once those questions had been considered.

For one, the Board asked staff to prepare a map identifying those parcels which would be subject to the exception if such an amendment were made to the ordinance. Such a map has been prepared, and will be presented to the Board when it reconsiders this matter. Unfortunately, the map is too large to reproduce and include in the agenda packet. The map identifies those portions of the County where the discharge of firearms is currently prohibited and in contrasting colors, designates privately owned properties of five acres or larger which lie within any of the above four zoning classifications. It further identifies large parcels within any of the four identified zones which, as far as the County's mapping office can determine, are currently utilized either for agricultural purposes or are vacant.

Second, the Board had asked that additional safety provisions be incorporated in a revised draft of a possible amendment to allow the discharge of firearms with a DGIF kill permit

only on vacant parcels or those which are currently being used for agricultural purposes, and requiring that firearms be discharged only from a tree stand or elevated platform. The attached draft includes provisions to that effect.

Finally, I have been asked whether the County actually has land "zoned for agricultural use" (as HB 521 says) so that the County is obligated to adopt any modification to County Code § 16-7. In fact, the state legislation does not define the term "zoned for agricultural use," and my inclusion of the RR, RC, IL, and IG zones within that term is not clearly mandated by the legislation adopted by the 2000 General Assembly. Although all four zoning categories allow crop and livestock farming as permitted uses, and three of them (with the exception of the RR zone) allow aquaculture as a permitted use, in my opinion it would not be fair to characterize any of the four zones as primarily agricultural in nature. Consequently, if the Board is wary of adopting an ordinance amendment which would have the effect of allowing the discharge of shotguns and small caliber rifles in areas in which such activity has heretofore been prohibited, I believe that a reasonable interpretation of HB 521 would support the Board's decision. Please note that the possible use of bows and arrows to hunt deer will not be impacted by a decision not to amend the ordinance.

The attached ordinance, if adopted by the Board, would amend County Code § 16-7 as discussed above.

Barnett/3340:mrc

Attachment: Ordinance No. 00-08(R)